

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

PLAINTIFF'S MOTION TO REMAND

Plaintiff Jackson County, Missouri (“Plaintiff”), by and through undersigned counsel, and pursuant to 28 U.S.C. § 1447(c) and 1453(c)(1), hereby moves this Court for its Order remanding this action to the Circuit Court of Jackson County, Missouri, at Independence. In support of its Motion, Plaintiff states as follows:

1. On November 5, 2015, Plaintiff Jackson County, Missouri, filed its Class Action Petition commencing this action in the Circuit Court of Jackson County, Missouri, at Independence. (*See* ECF No. 1-1.)

2. Defendants Trinity Industries, Inc., and Trinity Highway Products, LLC, were served with Summons and the Petition on December 2, 2015. (*Id.*)

3. On January 4, 2016, Defendants filed their Notice of Removal by Defendants Trinity Industries, Inc., and Trinity Highway Products, LLC. (ECF No. 1.)

4. In their Notice of Removal, Defendants assert traditional diversity jurisdiction under 28 U.S.C. § 1332(a) as the sole basis for removal. (See ECF No. 1, ¶ 9.)

5. Plaintiff moves to remand on the grounds that the amount in controversy on Plaintiff's claims does not exceed the sum or value of \$75,000.00, exclusive of interest and costs, and this Court thus lacks subject matter jurisdiction over this action.

6. Plaintiff's Motion to Remand is filed within thirty (30) days of Defendants' filing their Notice of Removal and is, therefore, timely pursuant to 28 U.S.C. § 1447(c).

7. In further support of this Motion, Plaintiff incorporates and restates its Suggestions in Support of Plaintiff's Motion to Remand, which is filed contemporaneously herewith, as though fully set forth herein.

WHEREFORE, for the reasons set forth above and in the Suggestions in Support of Plaintiff's Motion to Remand, filed contemporaneously herewith and incorporated herein by reference, Plaintiff Jackson County, Missouri, prays that the Court enter its Order: (a) remanding this action to the Circuit Court of Jackson County, Missouri, at Independence, the State court from which this action was removed; (b) awarding Plaintiff its just costs and actual expenses, including its reasonable attorneys' fees, incurred as a result of the removal; and (c) awarding Plaintiff such other and further relief the Court deems just and proper.

DATED this 22nd day of January, 2016.

Respectfully submitted,

MILLER SCHIRGER, LLC

/s/ Matthew W. Lytle

John J. Schirger MO Bar #60583
Matthew W. Lytle MO Bar #59145
4520 Main Street, Suite 1570
Kansas City, Missouri 64111
Telephone: (816) 561-6500
Facsimile: (816) 561-6501
E-mail: jschirger@millerschirger.com
E-mail: mlytle@millerschirger.com

- AND -

WAGSTAFF & CARTMELL LLP

Tom Wagstaff, Jr. MO Bar #50237
Jack T. Hyde MO Bar #63903
Mallory Vandyke MO Bar #66110
4740 Grand Avenue, Suite 300
Kansas City, Missouri 64112
Telephone: (816) 701-1100
Facsimile: (816) 531-2372
E-mail: t.l.wagstaff@wcllp.com
E-mail: jhyde@wcllp.com
E-mail: mvandyke@wcllp.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

Mark A. Beatty
Thompson Coburn LLP
One US Bank Plaza, Suite 2700
St. Louis, MO 63101
Email: mbeatty@thompsoncoburn.com

Elizabeth D. Scott
Michelle A. Reed
Aking Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201
Email: edscott@akingump.com
mreed@akingump.com

ATTORNEYS FOR DEFENDANTS

/s/ Matthew W. Lytle
Attorney for Plaintiff